

SECRETARY OF STATE[721]

Notice of Intended Action

Proposing rule making related to felony conviction verification and providing an opportunity for public comment

The Secretary of State hereby proposes to amend Chapter 28, “Voter Registration File (I-VOTERS) Management,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 47.1.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 48A.30.

Purpose and Summary

This proposed rule making is one of several new measures Iowa Secretary of State Paul Pate’s office is taking to ensure the integrity of Iowa’s felon database. Felons are currently barred from voting in Iowa unless their rights have been restored. Iowa’s felon database contains more than 100,000 entries.

The Secretary of State’s office has partnered with the Iowa Judicial Branch to ensure information provided by the courts to the Secretary of State’s office pursuant to Iowa Code section 48A.30, regarding felony convictions, is accurate. This includes a six-step verification process. Three of those steps are new, and the others have been enhanced.

The intent of this proposed rule making is to clarify the roles of the Iowa Judicial Branch, the Secretary of State’s office and county auditors regarding the felon database. The proposed changes to the rule require the Secretary of State’s office to verify a felony conviction prior to forwarding the voter’s information so county auditors can complete the cancellation process.

In addition to proposing the addition of verification steps for new convictions, the Secretary of State’s office will also be conducting a manual review of all database entries. The goal is for the review to be completed prior to the November 3, 2020, general election.

Secretary Pate’s office will utilize federal funds to pay for additional staff and review of the felon data.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Secretary of State no later than 4:30 p.m. on January 7, 2020. Comments should be directed to:

Molly Widen
Office of the Secretary of State
Lucas State Office Building, First Floor
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.5864
Email: molly.widen@sos.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 10, 2020
2 to 3 p.m.

Iowa Capitol Building
Room 22
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Secretary of State and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 721—28.4(48A) as follows:

721—28.4(48A) Cancellations and restorations of voter registration due to felony conviction.

28.4(1) Based upon information provided to the state registrar by the state or federal judicial branch and by the governor, the state registrar shall maintain a list of ~~convicted~~ felons convicted in state of Iowa district courts and the United States district courts of the northern and southern districts of Iowa and a list of convicted felons whose voting rights have been restored by the governor of Iowa. Periodically, these lists shall be matched with I-VOTERS. Based upon predetermined search criteria, a list of likely matches of ineligible voters shall be produced for each county and provided to each county registrar.

28.4(2) The state registrar has a demonstrated institutional need for documentation that sufficiently establishes an individual defendant's felony conviction. Therefore, the state registrar shall collaborate with the judicial branch to obtain documentation about felony convictions in a timely, efficient fashion, which shall include documentation sufficient to establish an individual defendant's felony conviction. When the state registrar receives felony conviction information from the United States attorney pursuant to Iowa Code section 48A.30(1) "d," the state registrar shall request documentation sufficient to establish conviction of an offense classified as a felony under federal law. The state registrar shall verify any conviction information provided pursuant to Iowa Code section 48A.30(1) "d" prior to adding an individual to the list of convicted felons maintained pursuant to subrule 28.4(1).

28.4(2) 28.4(3) Within ~~15~~ 30 days of the receipt of the list produced by the state registrar in accordance with subrule 28.4(1), the county registrar shall review the list of likely matches, determine the accuracy of the search results based on first name, last name, date of birth and social security number and cancel the registrations of those voters found to be ineligible to vote. The county registrar may

also utilize sex, Iowa driver's license or nonoperator's identification numbers, and previous names, if available, to determine the accuracy of the search results. If the county registrar has questions regarding a felony conviction, the county registrar shall contact the court of conviction's clerk of court. Notice shall be sent to the voter at the voter's address in the voter registration file pursuant to Iowa Code section 48A.30(2). The notice shall be sent by forwardable mail and shall provide the voter an opportunity to have the county registrar review any relevant information that establishes the voter's eligibility to vote. When inclusion of a voter's name on the list of likely matches is found to be inaccurate, the registrar shall mark the record as a "no match" and provide that information to the state registrar.

~~28.4(3)~~ **28.4(4)** New applicants for registration entered into I-VOTERS by a county registrar shall be electronically matched against the list of convicted felons in the file, and applicants disqualified due to felony conviction shall not be registered as voters. The county registrar shall notify the registration applicant of the applicant's disqualification in the same manner as provided for in subrule ~~28.4(2)~~ **28.4(3)** above.